

Representative James A. Dunnigan proposes the following substitute bill:

SUPPORT ANIMALS AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: James A. Dunnigan

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends provisions related to animals that provide support for individuals with disabilities.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends housing and criminal provisions relating to the use of a service animal or a support animal; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

62A-5b-101, as enacted by Laws of Utah 2007, Chapter 22

62A-5b-102, as last amended by Laws of Utah 2011, Chapter 94

62A-5b-103, as renumbered and amended by Laws of Utah 2007, Chapter 22



26 **62A-5b-104**, as last amended by Laws of Utah 2012, Chapter 389
 27 **62A-5b-105**, as renumbered and amended by Laws of Utah 2007, Chapter 22
 28 **62A-5b-106**, as renumbered and amended by Laws of Utah 2007, Chapter 22

30 *Be it enacted by the Legislature of the state of Utah:*

31 Section 1. Section **62A-5b-101** is amended to read:

32 **CHAPTER 5b. RIGHTS AND PRIVILEGES OF AN INDIVIDUAL**
 33 **WITH A DISABILITY**

34 **62A-5b-101. Title.**

35 This chapter is known as "Rights and Privileges of ~~[a Person]~~ an Individual with a
 36 Disability."

37 Section 2. Section **62A-5b-102** is amended to read:

38 **62A-5b-102. Definitions.**

39 As used in this chapter:

40 (1) "Disability" has the same meaning as defined in 42 U.S.C. 12102 of the Americans
 41 With Disabilities Act of 1990, as may be amended in the future, and 28 C.F.R. 36.104 of the
 42 Code of Federal Regulations, as may be amended in the future.

43 (2) "Protection and advocacy agency" means an entity designated by the governor for
 44 the protection and advocacy of individuals with disabilities under 29 U.S.C. Sec. 794e et seq.,
 45 42 U.S.C. Sec. 15041 et seq., or 42 U.S.C. Sec. 1801 et seq.

46 [~~2~~] (3) "Restaurant":

47 (a) includes any coffee shop, cafeteria, luncheonette, soda fountain, dining room, or
 48 fast-food service where food is prepared or served for immediate consumption; and

49 (b) does not include:

50 (i) any retail establishment whose primary business or function is the sale of fuel or
 51 food items for off-premise, but not immediate, consumption; and

52 (ii) except for a dinner theater, a theater that sells food items.

53 [~~3~~] (4) (a) "Service animal" includes any dog that:

54 (i) is trained, or is in training, to do work or perform tasks for the benefit of an
 55 individual with a disability, including a physical, sensory, psychiatric, intellectual, or other
 56 mental disability;

57 (ii) performs work or tasks, or is in training to perform work or tasks, that are directly
58 related to the individual's disability, including:

59 (A) assisting an individual who is blind or has low vision with navigation or other
60 tasks;

61 (B) alerting an individual who is deaf or hard of hearing to the presence of people or
62 sounds;

63 (C) providing non-violent protection or rescue work;

64 (D) pulling a wheelchair;

65 (E) assisting an individual during a seizure;

66 (F) alerting an individual to the presence of an allergen;

67 (G) retrieving an item for the individual;

68 (H) providing physical support and assistance with balance and stability to an
69 individual with a mobility disability; or

70 (I) helping an individual with a psychiatric or neurological disability by preventing or
71 interrupting impulsive or destructive behaviors.

72 (b) "Service animal" does not include:

73 (i) an animal other than a dog, whether wild or domestic, trained or untrained; or

74 (ii) an animal used solely to provide:

75 (A) a crime deterrent;

76 (B) emotional support;

77 (C) well-being;

78 (D) comfort; or

79 (E) companionship.

80 (5) "Support animal" means an animal, other than a service animal, that qualifies as a
81 reasonable accommodation under federal law for an individual with a disability.

82 Section 3. Section **62A-5b-103** is amended to read:

83 **62A-5b-103. Rights and privileges of an individual with a disability.**

84 (1) [~~A person~~] An individual with a disability has the same rights and privileges in the
85 use of highways, streets, sidewalks, walkways, public buildings, public facilities, and other
86 public areas as [~~a person~~] an individual who is not [~~a person~~] an individual with a disability.

87 (2) [~~A person~~] An individual with a disability has equal rights to accommodations,

88 advantages, and facilities offered by common carriers, including air carriers, railroad carriers,
89 motor buses, motor vehicles, water carriers, and all other modes of public conveyance in this
90 state.

91 (3) ~~[A person]~~ An individual with a disability has equal rights to accommodations,
92 advantages, and facilities offered by hotels, motels, lodges, and all other places of public
93 accommodation in this state, and to places of amusement or resort to which the public is
94 invited.

95 (4) (a) ~~[A person]~~ An individual with a disability has equal rights and access to public
96 and private housing accommodations offered for rent, lease, or other compensation in this state.

97 (b) This chapter does not require a person renting, leasing, or selling private housing or
98 real property to modify the housing or property in order to accommodate ~~[a person]~~ an
99 individual with a disability or to provide a higher degree of care for that ~~[person]~~ individual
100 than for someone who is not ~~[a person]~~ an individual with a disability.

101 (c) A person renting, leasing, or selling private housing or real property to ~~[a person]~~ an
102 individual with a disability shall comply with the provisions of Section ~~62A-5b-104~~, ~~regarding~~
103 ~~the right of the person to be accompanied by a service animal specially trained for that~~
104 ~~purpose~~].

105 Section 4. Section ~~62A-5b-104~~ is amended to read:

106 **~~62A-5b-104. Right to be accompanied by service animal or assistance animal --~~**
107 **~~Security deposits -- Discrimination -- Liability -- Identification.~~**

108 (1) (a) ~~[A person]~~ An individual with a disability has the right to be accompanied by a
109 service animal, unless the service animal is a danger or nuisance to others as interpreted under
110 the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102:

111 (i) in any of the places specified in Section ~~62A-5b-103~~; and

112 (ii) without additional charge for the service animal.

113 ~~[(b) This section does not prohibit an owner or lessor of private housing~~
114 ~~accommodations from charging a person, including a person with a disability, a reasonable~~
115 ~~deposit as security for any damage or wear and tear that might be caused by a service animal if~~
116 ~~the owner or lessor would charge a similar deposit to other persons for potential wear and tear.]~~

117 (b) An owner or lessor of private housing accommodations:

118 (i) may charge an individual with a disability who is accompanied by a service animal

119 or a support animal the same security deposit for wear and tear that the owner or lessor charges
 120 to other persons who are not accompanied by a service animal or a support animal; and

121 (ii) may not charge an extra fee or deposit for a service animal or a support animal.

122 (c) An owner or lessor of private housing accommodations may not, in any manner,
 123 discriminate against [~~a person~~] an individual with a disability on the basis of the [~~person's~~]
 124 individual's possession of a service animal or a support animal.

125 (2) [~~A person~~] An individual who is not [~~a person~~] an individual with a disability has
 126 the right to be accompanied by an animal that is in training to become a service animal or a
 127 police service canine, as defined in Section 53-16-102:

128 (a) in any of the places specified in Section 62A-5b-103; and

129 (b) without additional charge for the animal.

130 (3) [~~A person~~] An individual with a disability is liable for any loss or damage caused or
 131 inflicted to the premises by the [~~person's~~] individual's service animal or support animal.

132 (4) A person accompanied by a service animal is encouraged to identify the animal by
 133 exhibiting one or more of the following:

134 (a) the animal's laminated identification card;

135 (b) the animal's service vest; or

136 (c) another form of identification.

137 Section 5. Section 62A-5b-105 is amended to read:

138 **62A-5b-105. Policy of state to employ individuals with a disability.**

139 It is the policy of this state that [~~a person~~] an individual with a disability shall be
 140 employed in the state service, the service of the political subdivisions of the state, in the public
 141 schools, and in all other employment supported in whole or in part by public funds on the same
 142 terms and conditions as [~~a person~~] an individual who is not [~~a person~~] an individual with a
 143 disability, unless it is shown that the particular disability prevents the performance of the work
 144 involved.

145 Section 6. Section 62A-5b-106 is amended to read:

146 **62A-5b-106. Interference with rights provided in this chapter --**

147 **Misrepresentation of rights under this chapter.**

148 (1) Any [~~person,~~] individual or agent of any [~~person~~] individual, who denies or
 149 interferes with the rights provided in this chapter is guilty of a class C misdemeanor.

- 150 (2) ~~[A person]~~ An individual is guilty of a class B misdemeanor if:
- 151 (a) the ~~[person]~~ individual intentionally and knowingly falsely represents to another
- 152 person that an animal is a service animal ~~[as defined in Section 62A-5b-102, or]~~ or a support
- 153 animal;
- 154 (b) the ~~[person]~~ individual knowingly and intentionally misrepresents a material fact to
- 155 a health care provider for the purpose of obtaining documentation from the health care provider
- 156 necessary to designate an animal as a service animal ~~[as defined in Section 62A-5b-102.]~~ or a
- 157 support animal; or
- 158 (c) the individual, except for an individual with a disability, uses an animal to gain
- 159 treatment or benefits only provided for an individual with a disability.
- 160 (3) This section does not affect the enforceability of any criminal law, including
- 161 Subsection 76-6-501(2).
- 162 (4) An agent of a protection and advocacy agency, acting in the agent's professional
- 163 capacity and in compliance with 29 U.S.C. Sec. 794e et seq., 42 U.S.C. Sec. 15041 et seq., or
- 164 42 U.S.C. Sec. 1801 et seq., is not criminally liable under Subsection (2).